



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,845	12/21/2001	James P. Karlen	27472-1	4911
24256	7590	03/25/2004	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,845	KARLEN, JAMES P.	
	Examiner	Art Unit	
	Khoi H Tran	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-21 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-9 and 11-21 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

KHOI H. TRAN
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/15/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the linear actuator must be shown or the feature(s) canceled from the claim 13. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3651

2. Claims 2, 5, 6, 7, 12, 14-17, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward et al. 5,857,413.

Ward '413 discloses an automated stowage and retrieval system and a method of operating thereof per claimed invention. Ward '413 system discloses a plurality of rectangular motorized pallets contained in a matrix (Figures 1, 5, 9, paragraph bridging columns 10 and 11). Each of the pallets comprises rollers and driving mechanism for bi-directional horizontal movements between pluralities of zones within the matrix. The matrix having at least one vacant zone adapted to the size of at least one of the pallets. The system comprises a programmable controller capable of receiving input regarding a desired load and configured to communicate with the plurality of driving mechanism on the pallets to move a number of pre-selected pallets having the desired load to a predetermined location. Said programmable controller coordinates sequential movement of a selected number of the plurality of pallets within said matrix to move a predetermined pallet carrier having the desired load to a predetermined position (column 11, lines 5-10).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 8, 9, 11, 13, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al. 5,857,413.

Art Unit: 3651

In regards to claims 3 and 4, Ward '413 discloses all elements per claimed invention as explained in paragraph 2 above. However, it is silent as to the specifics of the pallet moving system being applicable to a storage compartment of a naval vessel having holds or magazines. Since Ward '413 automated stowage and retrieval system structurally anticipates all claimed elements of the invention, it is obvious that said system is applicable to a storage compartment of a naval vessel having holds or magazines.

In regards to claims 8, 9, 18, and 19, it is obvious that Ward '413 rectangular pallets are being manufactured per certain predetermined standards by the manufacturer.

In regards to claim 11, it is obvious that Ward '413 pallet transporting system is capable of moving cargo or weaponry, since it anticipates all structural elements of the claimed transporting system.

In regards to claim 13, Ward '413 discloses all elements per claimed invention as explained in paragraph 2 above. However, it is silent as to the specific of the motor 30 being a linear actuator. It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Ward '413 with a linear actuator because it facilitates a motive means for the pallet. Providing a motor having a linear actuator is commonly well known within the art. In addition, the limitation of a linear actuating motor which is really another motor means presents no novel or unexpected result over the motor used in the reference. Use of such a mean in lieu of the one used in the reference provides no stated problem and would be an obvious

Art Unit: 3651

matter of design choice within the skill of the art. *In re Launder*, 42 CCPA 886, 222 F.2d 317, 105 USPQ 446 (1955).

5. Claims 2-9, 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day, III et al. 5,395,199.

Day '199 discloses an automated stowage and retrieval system and a method of operating thereof per claimed invention. Day '199 system discloses a plurality of rectangular motorized pallets contained in a matrix (Figures 1-3). Each of the pallets comprises rollers/wheels and driving mechanism for bi-directional horizontal movements between pluralities of zones within the matrix. The matrix having at least one vacant zone adapted to the size of at least one of the pallets. The system comprises a programmable controller capable of receiving input regarding a desired load and configured to communicate with the plurality of driving mechanism on the pallets to move a number of pre-selected pallets having the desired load to a predetermined location. However, Day '199 is silent as to the specifics of the controller coordinating sequential movements for the pallets.

However, it is obvious that Day '199 controller would have to sequentially coordinate the movements of the plurality of pallets on said matrix in order for the pallets to move within the system without colliding into one another.

In regards to claims 3 and 4, Day '199 discloses all elements per claimed invention as explained above. However, it is silent as to the specifics of the pallet moving system being applicable to a storage compartment of a naval vessel having holds or magazines. Since Day '199 automated stowage and retrieval system

structurally anticipates all claimed elements of the invention, it is obvious that said system is applicable to a storage compartment of a naval vessel having holds or magazines.

In regards to claims 8, 9, 18, and 19, it is obvious that Day '199 rectangular pallets are being manufactured per certain predetermined standards by the manufacturer.

In regards to claim 13, Day '199 discloses all elements per claimed invention as explained above. However, it is silent as to the specific of the motor 33 being a linear actuator. It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Day '199 with a linear actuator because it facilitates a motive means for the pallet. Providing a motor having a linear actuator is commonly well known within the art. In addition, the limitation of a linear actuating motor which is really another motor means presents no novel or unexpected result over the motor used in the reference. Use of such a mean in lieu of the one used in the reference provides no stated problem and would be an obvious matter of design choice within the skill of the art. *In re Launder*, 42 CCPA 886, 222 F.2d 317, 105 USPQ 446 (1955).

Allowable Subject Matter

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 2-21 have been considered but are moot in view of the new ground(s) of rejection.

However, Applicant's arguments filed on January 15, 2004 have been fully considered but they are not persuasive. Applicant argued that Ward et al. 5,857,413 does not anticipate the present claim language because Applicant has found no teaching of a plurality of pallets contained in a matrix from said prior art. This argument is not persuasive. Applicant's attention is directed to Figure 9 and the paragraph bridging columns 10 and 11 of Ward '413. From Figure 9 and the said paragraph, it is undisputable that Ward '413 system comprises a plurality of pallets that simultaneously or sequentially move on a matrix containing a plurality of bi-directional tracks and intersections.

Applicant argued "the teachings in Ward '413 are directed to the movement of an individual pallet along a trackway and the ability of the pallets to move between trackways, but failed to disclose any sequentially coordinated movement of the pallets in the system as they independently move along the track". This argument is not persuasive. Applicant attention is directed to the first full paragraph in column 11 of Ward '413. In this paragraph, Ward' 413 explicitly indicates that the controller comprises an automatic collision prevention system for the simultaneous or sequential moving pallets. This means that there is a plurality of moving pallets along Ward '413 tracks, and Ward's control system would have to sequentially coordinate the movements of said pallets to avoid collision among the moving pallets. Contrary to

Applicant suggestion, Ward '413 system does teach the moving of a plurality of pallets, and the movements of said pallets are sequentially coordinated by the controller to move a predetermined pallet to a predetermined destination.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 308-1113. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
03/19/2004